




MEMORANDUM

Date: November 1, 2013

To: Suzanne Shields, Director
Regional Flood Control District

From: C.H. Huckelberry
County Administrator 

Re: **In-lieu Fee Mitigation Program Projects Sites and Locations, Including Cienega Creek**

Per our recent discussion, please develop more specific plans and details regarding the Cienega Creek in-lieu fee mitigation program: the amount of riparian areas by acreage and classification that can be reestablished, as well as the average per-acre cost to purchase acreage in the mitigation bank.

There are a number of prerequisites that must occur before the Cienega Creek project can be a viable in-lieu fee mitigation site, such as acquisition of the Cienega Creek dam site and control of same by the Regional Flood Control District (RFCD); acquisition of all surface water rights in the Cienega basin, particularly those that result in actual wet water; acquisition of the downstream distribution system from the dam site, including the pipeline from the dam to the Del Lago Golf Course; and, finally, acquisition of a major well site near the dam site with groundwater pumping rights, as well as groundwater pumping limitations in the vicinity of Cienega Creek. These are the only actions that can assure a water supply essential to making the Cienega Creek in-lieu fee mitigation site viable.

For each of these acquisitions, we need to obtain an appropriate, independent cost analysis to determine the value if transferred to the RFCD. This asset will be independent of the per acre charge to purchase credits in the in-lieu fee mitigation bank.

Another essential element of our decision relates to residual liability the RFCD may have if, for any reason, the in-lieu fee mitigation bank does not produce the riparian restoration required; and, for whatever reason, including climate, we are not able to sustain the re-established riparian areas.

We must have some general concept of our long-term maintenance and monitoring obligations for such a system to ensure that those causing the impacts are required to re-establish or purchase mitigation, pay the full cost of same and are not subsidized in any way by RFCD taxpayers. I would appreciate a full report and analysis on this site as soon as practically possible.

Ms. Suzanne Shields

Re: In-lieu Fee Mitigation Program Projects Sites and Locations, Including Cienega Creek

November 1, 2013

Page 2

Also, as you know, there are a number of pending major federal actions, including mining, a natural gas pipeline, and electrical transmission facilities that may require significant mitigation. The in-lieu fee mitigation program will be an option to ensure impacts that occur in Pima County are actually mitigated in Pima County. This is a fundamental principle of the in-lieu fee mitigation as I envision the program.

It is also very important to always remember that we are not the approving authority or the permitting authority for almost all of these federal actions. Although we are not approving the action that triggers the mitigation requirement, we certainly need to provide every opportunity for mitigation to occur closest to the area of impact and, in particular, within Pima County.

Finally, I would like to receive a brief outline of other in-lieu fee mitigation sites being considered: their size, location, and description. I know we have active planning underway for the Canoa site. I would also suggest we begin a very active planning process for the El Corazón/Santa Cruz site, as this site promises to be potentially one of the better in the County due to direct access to wet water that is owned and controlled by the Bureau of Reclamation to benefit the plaintiffs in water rights litigation settled by the Southern Arizona Water Rights Settlement Act. At this location, an applicant has access not only to land area for riparian restoration but a permanent water source.

I would appreciate receiving information at your convenience and also your arranging a meeting with Ms. Marjorie Blaine, Senior Project Manager/Biologist of the U.S Army Corps of Engineers, to discuss the availability and possible use of RFCD in-lieu fee mitigation sites to offset impacts to Waters of the United States caused by federal actions.

CHH/anc

c: John Bernal, Deputy County Administrator for Public Works
Chris Cawein, Director, Natural Resources Parks and Recreation